

3.908-7

showing that such delay is due to the bad faith of the complainant—

(1) The complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint; and

(2) The complainant may bring a *de novo* action at law or equity against the contractor or subcontractor to seek compensatory damages and other relief available under 41 U.S.C. 4712 in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this authority may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

(c) *Admissibility in evidence.* An Inspector General determination and an agency head order denying relief under this section shall be admissible in evidence in any *de novo* action at law or equity brought pursuant to 41 U.S.C. 4712.

(d) *No waiver.* The rights and remedies provided for in 41 U.S.C. 4712 may not be waived by any agreement, policy, form, or condition of employment.

[78 FR 60171, Sept. 30, 2013]

3.908-7 Enforcement of orders.

(a) Whenever a contractor or subcontractor fails to comply with an order issued under 3.908-6(a)(2) of this section, the head of the agency concerned shall file an action for enforcement of the order in the U.S. district court for a district in which the reprisal was found to have occurred. In any action brought pursuant to this authority, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorney fees and costs. The complainant-employee upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency.

(b) Any person adversely affected or aggrieved by an order issued under 3.908-6(a)(2) may obtain review of the order's conformance with 41 U.S.C. 4712 and its implementing regulations, in the U.S. court of appeals for a circuit

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in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Filing such an appeal shall not act to stay the enforcement of the order of the head of an agency, unless a stay is specifically entered by the court.

[78 FR 60171, Sept. 30, 2013]

3.908-8 Classified information.

41 U.S.C. 4712 does not provide any right to disclose classified information not otherwise provided by law.

[78 FR 60171, Sept. 30, 2013]

3.908-9 Contract clause.

The contracting officer shall insert the clause at 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights, in all solicitations and contracts that exceed the simplified acquisition threshold.

[78 FR 60171, Sept. 30, 2013]

Subpart 3.10—Contractor Code of Business Ethics and Conduct

SOURCE: 72 FR 65881, Nov. 23, 2007, unless otherwise noted.

3.1000 Scope of subpart.

This subpart—

(a) Implements 41 U.S.C. 3509, Notification of Violations of Federal Criminal Law or Overpayments; and

(b) Prescribes policies and procedures for the establishment of contractor codes of business ethics and conduct, and display of agency Office of Inspector General (OIG) fraud hotline posters.

[79 FR 24197, Apr. 29, 2014]

3.1001 Definitions.

As used in this subpart—

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.